



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

July 31, 2019

Via ECF

Honorable George B. Daniels
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *ASPCA v. Animal and Plant Health Inspection Serv. et al.*, 18 Civ. 4559 (GBD) (DF)
Request for Adjournment of Briefing Schedule to Permit Release of Additional
Information

Dear Judge Daniels:

This Office represents Defendants the Animal and Plant Health Inspection Service and the U.S. Department of Agriculture (together, “USDA”) in the above-referenced case brought by the American Society for the Prevention of Cruelty to Animals (“ASPCA”) pursuant to the Freedom of Information Act (“FOIA”). I write respectfully to request an extension of the briefing schedule for the parties’ summary judgment motions and an adjournment of the argument currently scheduled for October 24, 2019.

As noted in the government’s last letter, on June 3, 2019, the U.S. District Court for the District of Columbia issued a decision involving certain related issues in *Humane Society of the United States v. Animal & Plant Health Inspection Serv.*, No. 18 Civ. 646, 2019 WL 2342949 (D.D.C. June 3, 2019). In light of the *Humane Society* decision, USDA has determined that it will reprocess the records responsive to the FOIA requests at issue in this case to release certain additional information that had previously been withheld.

USDA needs additional time to reprocess the more than 1,100 pages of records at issue here. The government expects that USDA’s reprocessing will reduce the number of records at issue in this case and narrow the issues presented for litigation. Accordingly, the government respectfully requests that the Court adjourn the present summary judgment schedule and oral argument set for October 24, 2019, and instead adopt the following schedule:

- September 6, 2019: USDA’s deadline to reprocess the records and make a release to the ASPCA.
- September 27, 2019: Parties’ deadline to confer regarding issues remaining for litigation.
- October 4, 2019: Parties’ deadline to submit their proposed schedule or schedules, either jointly or separately, for summary judgment briefing on any remaining issues.

This is the government's third request to modify the summary judgment briefing schedule. The Court granted the government's first request in full and granted the government's second request in part. *See* Dkt. Nos. 57-61.

The ASPCA does not consent to the government's proposed schedule and has advised the government that it will file a letter response with the bases therefor.

Thank you for your consideration of this request.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By: /s/ Samuel Dolinger
SAMUEL DOLINGER
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2677
E-mail: samuel.dolinger@usdoj.gov

cc: Counsel of record (via ECF)